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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,751	10/19/2004	Takuji Maeda	2004 1604A	6717
52349	7590	12/22/2008		EXAMINER
WENDEROTH, LIND & PONACK LLP. 2033 K. STREET, NW SUITE 800 WASHINGTON, DC 20006				BAYOU, YONAS A
ART UNIT	PAPER NUMBER			
			2434	
MAIL DATE	DELIVERY MODE			
12/22/2008	PAPER			

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/511,751	<b>Applicant(s)</b> MAEDA ET AL.
	<b>Examiner</b> YONAS BAYOU	<b>Art Unit</b> 2434

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 03 December 2008.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 18-26,32 and 33 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 18-26,32 and 33 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 19 October 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

**DETAILED ACTION**

1. This office action is in response to applicant's response filed on 12/03/2008.
2. Claims 18-26 and 32-33 are pending.
3. Claims 1-17 and 27-31 are cancelled.
4. Claims 18 and 32-33 are amended.
5. Applicant's arguments have been fully considered but they are not persuasive.
6. When responding to the Office action, Applicant is advised to clearly point out the patentable novelty the claims present in view of the state of the art disclosed by the reference(s) cited or the objection made. A showing of how the amendments avoid such references or objections must also be present. See 37 C.F.R. 1.111(c).

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/03/2008 has been entered.

***Response to Arguments***

1. Applicant's arguments with respect to claims 18-26 and 32-33 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
2. Claims 18-26 and 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yokoyama et al., Pub. No.: US 2001/0029526 A1 in view of Okada et al., Patent Number: 6,049,670.

Referring to claims 18-21, 24, 32 and 33, Yokoyama teaches wherein the program includes a program body running on the information processing terminal and program specific information for running said program body **[paragraphs 53-55 and figs. 5-11]**, and

Yokoyama further teaches a decision unit operable to (i) decided whether or not the terminal ID attached to the program obtainment request received by the receiving

unit is recorded in the first table [**paras. 9, 53-54, 124 and figs. 5-11, 24**; inherently request received from the information processing terminal and request also attached inherently to the terminal ID (the home terminal has its own terminal ID)] (ii) to distribute only the program body of the identified program to the information processing terminal by prohibiting distribution of the program specific information of the identified program in a case where the decision unit decides that the terminal ID is recorded in the first table [**paragraph 124 and fig. 24**], and (iii) in case where the decision unit decides that the terminal ID is not recorded in the first table, add, to the first table, the terminal ID and the program specific information, such that the added terminal ID and the program specific information have a corresponding relationship identified in the first table, and distribute the program body and the program specific information, as the identified program to the information processing terminal wherein the distributed program specific information is for revoking the information processing terminal from attempting an unauthorized use of the identified program [**paragraphs 45, 55, 69 and figs. 2, 13 and 17**; mobile agent corresponding to program which includes terminal ID and service program data which includes program-specific information (see fig. 6)]. Yokoyama does not appear to explicitly teach a table holding unit operable to hold a first table identifying a relationship between a previously distributed program and a terminal ID; wherein the information processing terminal stores the terminal ID such that the stored terminal ID cannot be re-written externally. However, Okada teaches the hidden file method is used in a computer using MSDOS, and the user can only find the hidden file by a special operation. Therefore, it becomes very difficult to duplicate the terminal identifier and the

terminal password if they are written in a hidden file **[column 11, lines 30-34]**.

Yokoyama and Okada are analogous art because both teach software/program distribution system.

At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the method of Yokoyama to include the hidden file method is used in a computer using MSDOS, and the user can only find the hidden file by a special operation of Okada because it becomes very difficult to duplicate the terminal identifier and the terminal password if they are written in a hidden file, please see KSR International Co. v. Teleflex Inc., 550 U.S., 82 USPQ2d 1385 (2007) for further interpretation.

Referring to claims 22 and 23, Yokoyama teaches wherein the prescribed value is a value indicating the number of distributions that the program specific information is allowed to be distributed from the server apparatus to the information processing terminal **[paragraph 11; traveling list corresponding to number of distributions]**.

Referring to claim 25, Yokoyama teaches the server apparatus holds a plurality of program specific information which is information that is different for each of the information processing terminal, and holds one program body which is common for each information processing terminal **[paragraph 55 and fig. 6]**.

Referring to claim 26, Yokoyama teaches wherein the table holding unit holds a fifth table identifying a relationship between a program body ID uniquely identifying the program body of the identified program and the terminal ID of the information processing terminal on which the program body runs **[paragraph 55 and fig. 6]**, and

Wherein the decision unit, by referring to the fifth table (i) determines that the program body of the identified program can be distributed in a case where the program ID and the terminal ID attached to the program obtainment request transmitted from the information processing terminal are identified in the fifth table as having a correspondence and (ii) determines that the program body of the identified program cannot be distributed in a case where the program ID and the terminal ID attached to the program obtainment request transmitted from the information processing terminal are not identified in the fifth table as having a correspondence **[paragraph 123-124 and figs. 23-24]**.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to YONAS BAYOU whose telephone number is (571)272-7610. The examiner can normally be reached on m-f, 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Zand can be reached on 571-272-3811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Yonas Bayou/

Examiner, Art Unit 2434

12/11/2008

/Kambiz Zand/

Supervisory Patent Examiner, Art Unit 2434